

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

**PAULA SIMMONS,**

\*

**PLAINTIFF.**

\*

**VS.**

\*

**CIVIL ACTION  
CASE NUMBER:**

**BELK, INC.**

\*

**DEFENDANT.**

\*

**COMPLAINT**

COMES NOW the Plaintiff, by and through counsel, and hereby makes this Complaint against the Defendant as follows:

**INTRODUCTION**

1. This is an action for unlawful employment practices and employment discrimination brought to secure legal and equitable relief for discrimination in employment on the basis of race and color brought within the Civil Rights Act of 1991, 42 U.S.C.A. Section 2000 et seq. Title VII, the Age Discrimination in Employment Act and the State common law.

**JURISDICTION AND VENUE**

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C.A. sections 1331 and 1333(a)(3) and (4) and under the doctrine of Supplemental Jurisdiction.

3. The unlawful employment practices and unlawful acts alleged herein were committed in the Northern District of Alabama, Western Division.

**PARTIES**

4. Plaintiff is a black, African-American female and an adult over the age of forty (40) years of age and resides in Tuscaloosa County, Alabama.

5. Belk, Inc. is a corporation doing business in the Northern District of Alabama,

**NATURE OF CLAIM**

3. This claim seeks restitution to Plaintiff of all rights, privileges, benefits and income that Plaintiff would have had but for Defendants' unlawful discriminatory and other unlawful practices and related acts.

4. This action further seeks compensatory, punitive damages, consequential and non-pecuniary damages for the harm done to Plaintiff.

**ADMINISTRATIVE PROCEEDINGS**

5. Plaintiff has complied with the administrative prerequisites by filing a charge of discrimination with the Equal Employment Office of the Agency.

6. Plaintiff received a Dismissal and Notice of Rights which is attached hereto as Exhibit "A". The Notice of Rights was received June 5, 2014

**STATEMENT OF CLAIM**

7. Plaintiff, Paula Simmons, is an employee of Belk, Inc. in it's department store located in University Mall at 1701 McFarland Boulevard East, Tuscaloosa, Alabama, 35404 in the customer service department.

8. Plaintiff began working at the Belk store in Tuscaloosa's University Mall in October of 2012 as a seasonal worker.

9. Plaintiff was promoted and progressed to a full-time position in the Customer Service Department.

10. As a full-time employee, Plaintiff received full benefits, including health insurance.

11. On or about August or September of 2013, Plaintiff was converted to a part-time employee without any benefits.

12. This conversion was made without any discussions with Plaintiff and Plaintiff only learned of it when her schedule was posted.

13. A similarly situated Belk employee who is white, namely Joan McCully, was given notice of the conversion and asked to consent to it. Plaintiff was never given such an option

14. Plaintiff was paid less wages than similarly situated other employees at Belk, Inc. who have been employed for less time than Plaintiff.

15. While Plaintiff has only been allowed to work an average of 20 to 23 hours per week, other similarly situated but less qualified workers who became employed at Belk after Plaintiff and who are under the age of 40 have been given many more hours.

16. While Plaintiff has requested a return to full-time employment her requests have been denied.

17. Other similarly situated employees who are white and who are under the age of forty have been allowed to return to full time employment.

18 Plaintiff has been discriminated against because of her race, black, and because of her age , over forty.

19. Defendant has intentionally and with reckless disregard and indifference violated Title VII of the Civil Rights Act of 1964.

20. Defendant has intentionally and with reckless disregard and indifference violated the Age Discrimination in Employment Act.

21. As a proximate result of Defendant's discrimination and other unlawful conduct toward Plaintiff, Plaintiff has lost wages, benefits and other compensation which such employment entails.

22. As a proximate result of Defendant's discrimination on the basis of race, color, and age and other unlawful conduct toward Plaintiff, Plaintiff has suffered and continues to suffer from emotional pain, suffering, stress, anxiety, inconvenience, loss of enjoyment of life, humiliation and other non-pecuniary losses.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiff request this Court take jurisdiction of this action and, upon trial by jury, grant Plaintiff the following relief:

A. That Plaintiff be awarded compensatory and punitive damages against the Defendant in an amount to be determined by a jury, along with any equitable relief to which Plaintiff may be entitled;

B. That Plaintiff be awarded consequential and non-pecuniary damages for mental anguish, emotional and physical distress, pain, suffering, loss of enjoyment of life, humiliation, stress, anxiety, and inconvenience along with any other consequential or non-pecuniary damage to which Plaintiff may be entitled to.

C. That Plaintiff be awarded back pay, benefits and compensation with interest that was lost due to Defendants' discriminatory and retaliatory conduct;

C. That Plaintiff be awarded reasonable attorney's fees and costs;

D. That Plaintiff be awarded pre-judgment interest;

E. That plaintiff be awarded such other relief as this Court deem just and proper.

RESPECTFULLY SUBMITTED, this the 3rd day of September, 2014.

*/S/ James D. Smith*

James D. Smith (SMI032)  
Attorney for Plaintiff Paula Simmons  
Law Offices of James D. Smith  
2820 7<sup>th</sup> Street  
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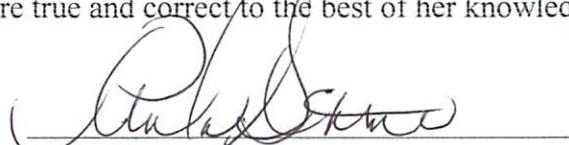
**PLAINTIFF DEMANDS TRIAL BY JURY**

*/S/ James D. Smith*

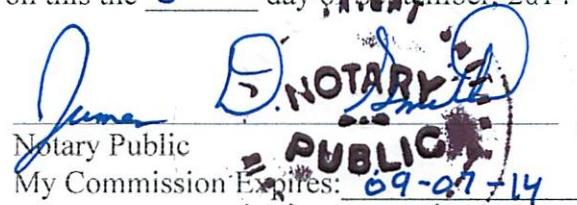
James D. Smith (SMI032)  
Attorney for Plaintiff Paula Simmons

**VERIFICATION OF COMPLAINT**

Before me, the undersigned Notary Public, in and for the State of Alabama,  
personally appeared Paula Simmons, who, first being duly sworn, states and verifies that  
the facts alleged in the above Complaint are true and correct to the best of her knowledge.

  
\_\_\_\_\_  
Paula Simmons

Sworn to and subscribed before me on this the 3<sup>rd</sup> day of September, 2014

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 09-07-14

and that all evidence of the illegal conduct will be destroyed.

Very truly yours,

John G. Coughlin, Esq.  
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